

## **EXHIBIT E**

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
MARSHALL DIVISION**

IMPLICIT, LLC,

Plaintiff,

v.

NETSCOUT SYSTEMS, INC.,

Defendant.

v.

SANDVINE CORPORATION,

Defendant.

Civil Action No. 2:18-cv-00053-JRG-RSP  
LEAD CASE

JURY TRIAL DEMANDED

Civil Action No. 2:18-cv-00054-JRG-RSP  
CONSOLIDATED

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**DEFENDANT'S PROPOSED VERDICT FORM**

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In answering the following questions and filling out this Verdict Form, you are to follow all of the instructions I have given you in the Court's charge. Please follow the directions provided throughout the form. Your answers to each question must be unanimous. Some of the questions contain legal terms that are defined and explained in detail in the Jury Instructions. Please refer to the Jury Instructions if you are unsure about the meaning or usage of any legal term that appears in the questions below.

As used herein, "Plaintiff" means Implicit, LLC. As used herein, "Defendant" means NetScout Systems, Inc. As used herein, "Asserted Patents" means U.S. Patent Nos. 8,694,683, 9,270,790, and 9,591,104.

We, the jury, unanimously agree to answer the following questions:

**PLEASE ANSWER EACH QUESTION “YES” OR “NO”**

**QUESTION 1(a): Infringement**

Did Plaintiff prove by a preponderance of the evidence that Defendant NetScout Systems, Inc.’s Infinistream Product infringes any asserted claim of the Asserted Patents?

**QUESTION 1(b): Infringement**

Did Plaintiff prove by a preponderance of the evidence that Defendant NetScout Systems, Inc.’s GeoProbe Product infringes any asserted claim of the Asserted Patents?

**QUESTION 1(c): Infringement**

Did Plaintiff prove by a preponderance of the evidence that Defendant NetScout Systems, Inc.’s Arbor Product infringes any asserted claim of the Asserted Patents?

**ANSWER THIS QUESTION ONLY FOR THOSE PRODUCTS YOU ANSWERED  
“YES” TO IN QUESTION 1 – OTHERWISE SKIP THIS QUESTION AND PROCEED  
TO QUESTION 3.**

Answer “Yes” or “No” to each question.

**QUESTION 2 (a): Willful Infringement**

Did Plaintiff prove by a preponderance of the evidence that NetScout Systems, Inc.’s infringement was willful as to the Infinistream Product?

**QUESTION 2 (b): Willful Infringement**

Did Plaintiff prove by a preponderance of the evidence that NetScout Systems, Inc.’s infringement was willful as to the GeoProbe Product?

**QUESTION 2 (c): Willful Infringement**

Did Plaintiff prove by a preponderance of the evidence that NetScout Systems, Inc.’s infringement was willful as to the Arbor Product?

**If you have answered NO to ALL products of Question #1, answer no further questions, proceed to the last page, have your Foreperson sign and date this verdict form, and then deliver it to the Court Security Officer.**

**QUESTION 3: Damages**

**If you have answered YES for one or more products in Question #1, what sum of money, if any, has Plaintiff proven by a preponderance of the evidence would fairly and reasonably compensate Plaintiff for Defendant NetScout Systems, Inc.'s infringement?**

**Answer in dollars and cents.**

\$ \_\_\_\_\_

You have now reached the end of the verdict form and should review it to ensure it accurately reflects your unanimous determinations. The jury foreperson should then sign and date the verdict form in the spaces below and notify the Court Security Officer that you have reached a verdict. The jury foreperson should retain possession of the verdict form and bring it when the jury is brought back into the courtroom.

Signed this \_\_\_\_ day of December 2019.

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**Jury Foreperson**